

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Radcliff Family, LLC,

Petitioner-Appellant,

v.

Polk County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 10-77-0050
Parcel No. 110/00554-021-002**

On April 1, 2011, the above captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Radcliff Family, LLC was represented by Rick Radcliff. The Polk County Board of Review designated Assistant County Attorney Anastasia Hurn as its legal representative. The Appeal Board having reviewed the entire record, and being fully advised, finds:

Findings of Fact

Radcliff Family, LLC, owner of a commercially classified property located at 1625 East Euclid Avenue, Des Moines, Iowa, appeals from the Polk County Board of Review regarding its 2010 property assessment. The January 1, 2010, assessment is allocated as follows: \$84,000 in land value and \$494,000 in improvement value for a total assessment of \$578,000. The value increased from the previous year's assessment.

The subject property is a one-story, service/repair building built in 1959, and has a weighted age of 1973 due to remodeling throughout the years. The latest remodeling, according to the property record card, was in 1995. The improvements include 19,510 square feet of gross building area, with 2808 square feet of office finish. The property has 20,000 square feet of pavement. The site is 0.999 acres.

Radcliff protested its assessment to the Polk County Board of Review. On the protest it contended the property assessment was not equitable with that of like properties under Iowa Code section 441.37(1)(a). It also asserted that there has been a change downward since the last assessment under section 441.35.

The Board of Review lowered the total value to \$391,000, allocated as \$84,000 to the land and \$307,000 to the improvements.

Radcliff then appealed to this Board reasserting its original claims and contending the total actual value is \$270,000. In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we consider the claim of downward change as a claim of over-assessment under section 441.37(1)(b).

On its protest form to the Board of Review, Radcliff provided four equity comparables. It listed the tax district/parcel number, the street address, and the assessed value for each property. Radcliff provided property-card print-outs from the assessor's web-site for each of the four equity comparables, which confirm the reported values are the January 1, 2010, assessment for each property.

Also attached to the protest form was a spreadsheet comparing the subject property to the four equity comparables selected by Radcliff. The spreadsheet includes the weighted age, district/parcel number, address, zoning, site size, gross building area, land assessment, building assessment, total assessment, total assessed value per square foot, building only assessed value per square foot and the land only assessed value per square foot. The spreadsheet also includes totals for each column. We note that some calculations of the total assessed value per square foot, building value per square foot, and land value per square foot are not correctly calculated. Additionally, we note the land assessment for the subject is incorrectly listed as \$81,000 when it is actually \$84,000; and the building and total assessments shown for the subject are prior to the Board of Review reduction.

Figure 1 below a replication of Radcliff's spreadsheet, leaving out the district/parcel number and zoning columns. All of the properties in the table are noted as having M-1 zoning.

Figure 1.

Weighted Age	Address	Land SF	Gross Building Area	Land Assessment	Building Assessment	Total Assessment	Total \$/SF	Bldg Only \$/SF	Land Only \$/SF
1973	1625 E Euclid Ave	43,500	19,510	\$81,000	\$354,000	\$435,000	10.00	\$18.14	\$3.38
1979	1537 E Euclid Ave	36,547	19,680	\$70,000	\$222,000	\$292,000	7.99	\$11.28	\$4.15
1959	1665 E Madison Ave	193,035	50,000	\$185,300	\$777,000	\$962,300	4.99	\$15.54	\$1.30
1971	1631 E Aurora Ave	373,744	137,500	\$341,000	\$1,263,000	\$1,604,000	4.29	\$9.19	\$1.44
1971	1425 E Aurora Ave	85,680	9,600	\$109,500	\$188,500	\$298,000	3.48	\$19.64	\$1.44
Totals		732,506	236,290	\$786,800	\$2,804,500	\$3,591,300	4.90	\$11.87	\$1.59

We note that in Figure 1, the "Totals" for all columns is a sum of all five properties, which includes the highlighted subject property. The "Total \$/SF" and "Land Only \$/SF" columns in Radcliff's spreadsheet do not appear to be correctly calculated. The "Bldg Only \$/SF" is correctly calculated for each property, and then as an aggregate in the "Totals" calculations. Because of the incorrect assessments for the subject, errors in the calculations, as well as Radcliff including the subject in the "Totals," we do not give these numbers any consideration.

Figure 2 is with the correct calculations after removing the subject property, which should not have been included to determine averages.

Figure 2.

Weighted Age	Address	Land SF	Gross Building Area	Land Assessment	Building Assessment	Total Assessment	Total \$/SF	Bldg Only \$/SF	Land Only \$/SF
1973	1625 E Euclid Ave	43,500	19,510	\$84,000	\$307,000	\$391,000	20.04	\$15.74	\$1.93
1979	1537 E Euclid Ave	36,547	19,680	\$70,000	\$222,000	\$292,000	14.84	\$11.28	\$1.92
1959	1665 E Madison Ave	193,035	50,000	\$185,300	\$777,000	\$962,300	19.25	\$15.54	\$0.96
1971	1631 E Aurora Ave	373,744	137,500	\$341,000	\$1,263,000	\$1,604,000	11.67	\$9.19	\$0.91
1971	1425 E Aurora Ave	85,680	9,600	\$109,500	\$188,500	\$298,000	31.04	\$19.64	\$1.28
Totals		689,006	216,780	\$705,800	\$2,450,500	\$3,156,300	14.56	\$11.30	\$1.02

The Totals row for "Land SF" through "Total Assessment" in Figure 2 includes only the totals of the four equity comparables, omitting the shaded subject information from the calculations. The

“Total \$/SF” column is calculated by taking the Total Assessment divided by the Gross Building Area. The “Bldg Only \$/SF” column is calculated by taking the Building Assessment valuation divided by the Gross Area. The “Land Only \$/SF” column is calculated by taking the Land Assessment valuation divided by the Land SF. The “Totals” for the last three columns represent the same calculations but only for the aggregate totals of the four equity comparables therefore these sums represent the average for each of the last three columns. The median for each of the last three columns in Figure 2 is as follows: \$17.05; \$13.41 and \$1.12.

All four properties are located in the same general area as the subject property, and have similar zoning, classification, general use, and comparable effective year built. However, the property located at 1631 E Aurora Avenue is significantly larger than the subject property in both site size and gross building area (GBA). The subject has a site size of roughly one acre compared to 1631 E Aurora which has a site size of 8.58 acres. Additionally, the subject’s GBA of 19,510 square feet is significantly smaller than 1631 E Aurora which has a GBA roughly seven times larger of 137,500 square feet. As such, we do not consider this property to be a reasonable equity comparable.

Figure three below put the remaining three equity comparables side by side to the subject. While 1425 E Aurora Avenue has a smaller GBA of 9600 square feet compared to the subject; and 1665 E Madison Avenue has a larger GBA of 50,000 compared to the subject, they otherwise offer similar overall utility, location, condition, and appeal and are considered to be reasonable equity comparables.

Figure 3.

Weighted Age	Address	Land SF	Gross Area	Land Assessment	Building Assessment	Total Assessment	Total \$/SF	Bldg Only \$/SF	Land Only \$/SF
1973	1625 E Euclid Ave	43,500	19,510	\$84,000	\$307,000	\$391,000	20.04	\$15.74	\$1.93
1979	1537 E Euclid Ave	36,547	19,680	\$70,000	\$222,000	\$292,000	14.84	\$11.28	\$1.92
1959	1665 E Madison Ave	193,035	50,000	\$185,300	\$777,000	\$962,300	19.25	\$15.54	\$0.96
1971	1425 E Aurora Ave	85,680	9,600	\$109,500	\$188,500	\$298,000	31.04	\$19.64	\$1.28
	Totals	315,262	79,280	\$364,800	\$1,187,500	\$1,552,300	19.58	\$14.98	\$1.16

These three equity properties offered by Radcliff that we find comparable have a total assessed value per square foot of \$14.84 to \$31.04 with an average \$19.58, and a median of \$19.25 per square foot compared to the subject's total assessed value per square foot of \$20.04. This would indicate the subject's total assessed value is equitable.

Finally, we note that the equity comparable located at 1537 E Euclid Avenue sold in May of 2010 for \$235,000, or \$11.94 per square foot. Applying this sale price per square foot to the subject property would indicate a total value of roughly \$233,000. However, no information is known about this sale to determine if there were any additional factors that may have impacted the sale which may require adjustment or analysis. Additionally, we hesitate to rely solely on one comparable for a market value comparison. This particular "sale" was not offered by Radcliff, but it was in the data it submitted for consideration. No specific market value evidence was presented by Radcliff. Had Radcliff further investigated its claim of over-assessment it may have been able to show other like properties have a market value lower than its current assessed value.

Radcliff noted the Board of Review engaged a local real estate appraiser, Fred Lock to do an appraisal on the property for this appeal. He testified that Lock inspected the subject property in the "Summer of 2010." Radcliff assumed since he allowed the appraiser into the property, specifically for the appeal, that he would receive a copy of the appraisal.

Assistant County Attorney Anastasia Hurn, representing the Board of Review, indicated she was unaware that an appraisal had been commissioned. We requested she investigate to determine if an appraisal was completed. Hurn provided a copy of an email string from Randy Ripperger with the Polk County Assessor's office dated April 4, 2011. The email from Ripperger to Hurn simply stated "Fred Lock did not deliver the appraisal report in question to the Board of Review." We do not find this answer to be responsive to our question.

It would seem prudent that the Board of Review communicate with property owners and tell them prior to commissioning an appraisal that the property owner will or will not receive a copy of the report. This communication would allow the property owner to determine whether to allow access into the improvements with agreement beforehand that the property owner would or would not receive a copy of the completed document.

The Board of Review relied upon four equity comparables submitted to them in the "Appraiser's Analysis," dated May 10, 2010. The four properties are located 1537 E Euclid Avenue, 1665 E Madison Avenue, 1436 E Ovid Avenue, and 3120 Delaware Avenue. The first two properties were also listed by Radcliff; the latter two were not.

We do not consider the analysis included in the certified record to be an equity analysis. The equity comparison relied upon by the Board of Review consists of lining the comparables along side the subject and adjusting the assessed values for differences such as land/building ratio, year built, finished area, and so on. The error of this is it assumes the assessed value is the correct and actual market value of each property, additionally, it treats the equity analysis like a sales comparison approach, although in lieu of using market adjustments or market sales it relies upon cost adjustments and assessed values. We do not give this analysis any consideration.

Based upon the foregoing, we find insufficient evidence has been presented to support a claim of inequitable assessment or over-assessment.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal

Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). While the


evidence Radcliff presented did not follow the two traditional equity analyses noted above, it was presented in a manner which demonstrated the properties selected carried overall assessments on a dollar per square foot basis similar to the subject property. The Board of Review did not dispute the validity of Radcliff's equity comparables and in fact considered two of his comparables in their own equity analysis. We did not find the Board of Review's equity analysis to be reasonable or demonstrative either in support or against a specific position. While Radcliff's analysis is not considered a ratio analysis outline by *Maxwell*, we find it was compelling nonetheless. However, the results do not support the position that the subject property is inequitably assessed.

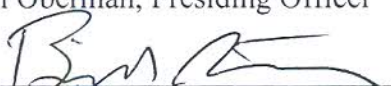
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Radcliff did not offer any evidence for a market value claim. While the Board of Review appears to have engaged an independent appraiser to determine the market value the subject property, it did not actually receive a written report from the appraiser. It is still unclear if the report was completed and not delivered or if the assignment was cancelled prior to a value opinion being determined by the appraiser. There is no evidence in the record from either party for a market value claim.


We therefore affirm the assessment of the Radcliff Family, LLC's property as determined by the Polk County Board of Review, as of January 1, 2010.

THE APPEAL BOARD ORDERS the assessment of the Radcliff Family, LLC located at 1625 E Euclid Avenue, Des Moines, of \$391,000 as of January 1, 2010, set by Polk County Board of Review, is affirmed.

Dated this 25 day of May, 2011


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-25</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	